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JUN 12 2000

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In re Application of	:	
BLAKE et al	:	DECISION ON
Application No.: 09/367,261	:	
PCT No.: PCT/GB98/00461	:	PETITION
Int. Filing Date: 13 February 1998	:	
Priority Date: 13 February 1997	:	UNDER 37 CFR 1.47(a)
Attorney's Docket No.: 39-187	:	
For: DRUG TARGETING	:	

This is in response to the petition under 37 CFR 1.47(a), filed 28 February 2000, to permit the signing of inventors Blake, Stratford, and Jaffar to file the above-captioned application on their behalf and on behalf of the non-signing joint inventors Dr. Naylor, Mrs. Adams, Dr. Morris and Dr. Naughton.

BACKGROUND

Petitioner has filed declarations by Ms. J. Beattie requesting the cooperation of Dr. Naylor, Mrs. Adams, Dr. Morris and Dr. Naughton in the filing of the above application. The above declarations attest that papers were sent to such persons mentioned above for signing.

DISCUSSION

37 CFR 1.47(a) provides:

If a joint inventor refuses to join in an application for patent or cannot be found or reached after diligent effort, the application may be made by the other inventor on behalf of himself or herself and the nonsigning inventor. The oath or declaration in such an application must be accompanied by a petition including proof of the pertinent facts and by the required fee (§1.17(I)) and must state the last known address of the nonsigning inventor.

Section 409.03(d) of the Manual of Patent Examining Procedure (M.P.E.P.), **Proof of Unavailability or Refusal**, states, in part:

Where a refusal of the inventor to sign the application papers is alleged, the circumstances of the refusal must be specified in an affidavit or declaration by the person to whom the refusal was made. Statements by a party not present when an oral refusal is made will not be accepted.

Before a refusal can be alleged, it must be demonstrated that a *bona fide* attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the nonsigning inventor, or, if the nonsigning inventor is represented by counsel, to the address of the nonsigning inventor's attorney.

Notwithstanding the statements to the contrary, it does not appear that petitioner has made a bona fide attempt to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the non-signing joint inventors Dr. Naylor, Mrs. Adams, Dr. Morris and Dr. Naughton., and that after presentation of the complete copy they had refused to sign the Declaration. Although Ms. J. Beattie declares sending the US Declaration & Power of Attorney Form, US Small Entity Form, US Assignment Form, and Canadian Assignment Form to Dr. Naylor, Mrs. Adams, Dr. Morris and Dr. Naughton. These forms do not satisfy the requirement of section 409.03(d) since a complete copy of the application does not appeared to have been mailed to them for reviewing and signing.

In addition, the declaration section of the Legal Representative of Ged Adams(his wife) should have the same block layout as the inventor's section and it must provide the following information of Mrs. Adams' (legal representative): residence(city), country, post office address, and zip code.

DECISION

For the above reasons, applicants' petition under 37 CFR 1.47(a) is DISMISSED, without prejudice.

Applicants are hereby afforded TWO (2) Months from the mail date of this decision to provide either a declaration in compliance with 37 CFR 1.63 or a petition satisfying all requirements under 37 CFR 1.47(a). Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(a)." No additional petition fee is required. Extensions of time are available under 37 CFR 1.136(a).

Any further correspondence with respect to this matter should be addressed to the Assistant Commissioner for Patents, Box PCT, Washington, D.C. 20231, with the contents of this letter marked to the attention of the PCT Legal Office.



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